

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

STEVEN LUNDY,	:	
	:	
Petitioner	:	CIVIL ACTION NO. 1:21-1259
	:	
v.	:	(JUDGE MANNION)
	:	
KATHY BRITTAIN, <i>et al.</i>,	:	
	:	
Respondents	:	

ORDER

Pending before the court is the report of United States Magistrate Judge Martin C. Carlson, which recommends that the petition for writ of habeas corpus filed in the above-captioned matter be denied and no certificate of appealability shall issue. (Doc. 9). No objections have been filed to the report.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b), advisory committee notes; see also Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)).

Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

Petitioner, a prolific filer in this court¹, filed the instant petition for writ of habeas corpus on July 19, 2021. (Doc. 1). He subsequently submitted the appropriate filing fee on August 19, 2021. (Doc. 8).

Judge Carlson has reviewed the petitioner's filing pursuant to Rule 4 of the Rules Governing Section 2254 Cases, 28 U.S.C. §2254, and determined that the petitioner's nolo contendere plea to strangulation in 2019 provides no factual grounds justifying habeas corpus relief, and that his legal arguments challenging his conviction based upon the Uniform Commercial Code are frivolous. Moreover, Judge Carlson found that the petition is presumptively time-barred as it was filed beyond the one-year statute of limitations provided for in 28 U.S.C. §2244(d) and no tolling provisions apply. Although given the opportunity to do so, the petitioner has failed to file any objections challenging Judge Carlson's findings.

The court has carefully considered the findings in Judge Carlson's report and recommendation and finds no clear error of law. Moreover, the

¹ See Doc. 9, p. 1.

court agrees with the sound reasoning which has led Judge Carlson to the conclusions in his report. As such, the report and recommendation will be adopted in its entirety as the opinion of the court.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

(1) The report and recommendation of Judge Carlson (**Doc. 9**) is

ADOPTED IN ITS ENTIRETY AS THE RULING OF THE COURT.

(2) The petition for writ of habeas corpus (**Doc. 1**) is **DENIED**.

(3) No certificate of appealability shall issue.

(4) The Clerk of Court is directed to **CLOSE THIS CASE**.

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

DATE: November 19, 2021

21-1259-01